

APPENDIX A7
**First Continuous Period of Institutionalization/
Community Spouse/Resource Deduction**

Overview

The spousal impoverishment amendments to the Medicaid Act found at 42 U.S.C. § 1396r-5 allow one spouse to retain sufficient property and income to live on when the other spouse requires institutional level care. The amendments provide that at the time of institutionalization of one spouse the Medicaid agency must do an assessment of the resources owned by both spouses. At that time, the agency determines how much of the joint resources the community spouse may keep. This is called the community spouse resource allowance.

Since the spousal impoverishment protections are only available to the **non-institutionalized spouse**, one of the spouses must meet the federal definition for institutionalized spouse. Federal law defines an institutionalized spouse as a person who is in a medical institution or nursing home or at the state's option a person who qualifies for home and community based services (HCBS). **Arizona has opted to include in its definition of institutionalized spouse persons who qualify for HCBS.**

As part of the spousal impoverishment protection, the "first continuous period of institutionalization (FCPI)" must be determined. The role of Medical Eligibility staff in this process is to determine the first continuous period of institutionalization for A/Rs who have received or intend to receive HCBS services. This Appendix provides detailed information for PAS assessors to use in making the determination. This process provides the Financial Eligibility staff with the necessary date in order to establish a Community Spouse Resource Deduction (CSRD). The CSRD is used in the resource eligibility determination.

A Community Spouse Resource Deduction only applies if the individual began a continuous period of institutionalization **on or after** September 30, 1989. No application for ALTCS is needed to obtain a resource assessment, regardless of whether the A/R resides in a medical institution, is receiving HCBS, or is intending to receive HCBS.

A. Terms

1. Community Spouse

The legally married spouse of an institutionalized spouse who is not residing in a medical institution. The spouse of an institutionalized individual who receives or expects to receive HCBS is a community spouse. **In instances where both spouses are receiving or intending to receive HCBS, each is considered the other's community spouse.**

2. Institutionalized Spouse

An institutionalized spouse is an individual who meets the following criteria:

- a. Resides in a medical institution (includes a hospital, NF or ICF-MR in which LTC or hospice services maybe provided), or
- b. Receives or received HCBS services of such intensity to prevent NF or ICF/MR placement.
- c. Intends to receive HCBS services and is "at risk" of institutionalization.

3. First Continuous Period of Institutionalization (FCPI)

- a. A period of at least 30 consecutive days of institutional care in a medical institution, or
- b. Receipt of HCBS for a period of 30 consecutive days fulfills this requirement if the receipt of the HCBS prevented the individual from becoming institutionalized, or

- c. For individuals intending to receive services the FCPI will be determined by being at risk of institutionalization as determined by the PAS. This establishes the FCPI for individuals to whom a. or b. do not apply.

4. Date of Institutionalization

The first day institutionalized for a continuous period or the first day an HCBS that prevented institutionalization was received. For individuals "intending to receive HCBS", the date of institutionalization is the date of application or date the PAS is passed. The requirement of "intending to receive" is met when the applicant applies for ALTCS, expresses an interest in home and community based services and passes the PAS.

5. Resource Assessment

A computation made by the State of the total value of joint resources of a married couple at the time of the first continuous period of institutionalization that began on or after September 30, 1989.

NOTE: If the first continuous period of institutionalization (FCPI), as determined by the PAS assessor, is prior to September 30, 1989, and there has not been a break of 30 days or more, a resource assessment would not be completed because "non-community spouse rules" apply. However, the PAS assessor must still establish the FCPI provided the applicant/recipient meets the definition and conditions of "a continuous period of institutionalization".

Nursing homes have been provided with a handout concerning the resource assessment entitled "New Patient Information From Arizona Health Care Cost Containment System" (DE-815). This handout stresses the importance of requesting a resource assessment at the time of institutionalization, and directs the couple to the local ALTCS office to complete the request.

For more detailed information on the resource assessment process, refer to ALTCS Eligibility Policy and Procedure Manual, Chapter 600.

B. Determination of First Continuous Period of Institutionalization

When establishing the FCPI, an individual may have received 30 consecutive days of institutional care from a number of different facilities. The individual may also receive a combination of Title XIX HCBS and non-Title XIX HCBS, or a combination of services provided in a facility and in an HCBS setting.

1. PAS Not Required

In order for receipt of HCBS to qualify as the first continuous period of institutionalization (for purposes of the resource assessment), receipt of the HCBS services (for a period of at least 30 consecutive days) must have prevented the individual from becoming institutionalized. For this purpose home and community based services must be paid formal services provided with a frequency or intensity that prevented the individual from becoming institutionalized. A complete list and description of these services is on the ME-100 form and a handout entitled "Types and Definitions of Home and Community Based Services (HCBS)".

The PAS assessor must determine by using the ME-100, ALTCS Community Spouse HCBS Information Form, if and when the individual first needed institutionalization and provide this information to the Eligibility Worker using the DE-126. This determination includes an evaluation of services received in the past up to the present.

2. PAS Required

If it is determined that the individual did not receive paid formal services of a frequency and intensity to prevent institutionalization, but does currently receive significant services which may be preventing institutionalization, then a PAS should be completed and the results referred to BFE.

If the individual is intending to receive HCBS and has no previous continuous period of institutionalization, a PAS must be completed. If the individual passes the PAS, the EW will complete a resource assessment. If the individual does not pass the PAS, the EW will deny the application.

PAS assessors will need to use their professional judgment in determining each case. The following are examples:

- (1) An individual begins receiving skilled nursing, physical therapy, and home health aide four days/week from a Home Health Agency on August 5, 1991. In late December 1991 she has a stroke and is admitted to the hospital for approximately two weeks. On January 5, 1992, she is transferred home again and continues receiving skilled nursing, physical therapy, home health aide and also speech therapy; she also applies for ALTCS at this time. The following considerations apply to this case:
 - FCPI is August 5, 1991. She establishes her continuous period of institutionalization (at least 30 continuous days) and has met all the other requirements (e.g., intensity/frequency of services and paid services).
 - If she had not received home and community based services prior to her stroke, the FCPI would have been December, 1991 as the combination of acute services (her hospitalization) and HCBS services would have met the requirement of 30 continuous days.
- (2) Mr. Jones suffers a stroke on February 5, 1990. He is sent home from the hospital on February 19, 1990 and applies for a resource assessment on that date. He receives physical therapy and speech therapy one time per week from a Home Health Agency and meals-on-wheels five times per week. The following consideration applies to this case:
 - Although the services Mr. Jones is receiving meet the requirement of being "formal" and "paid" services, they are not of the frequency/duration or intensity that would "prevent institutionalization" and, therefore, the FCPI has not been established.

